

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MELVIN PEARSON,) No. C 07-3042 JSW (PR)
Plaintiff,)
vs.)
DOCTOR SCENARIO, et al,) **ORDER OF TRANSFER**
Defendants.) (Docket No. 2)

Plaintiff, currently incarcerated at Central Valley MCCF in McFarland, California, has filed this civil rights action challenging the medical care he has received while incarcerated there. McFarland, California is located in Kern County, within the venue of the United States District Court for the Eastern District of California.

When jurisdiction is not founded solely on diversity, venue is proper in the district in which (1) any defendant resides, if all of the defendants reside in the same state, (2) the district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1391(b). Where a case is filed in the wrong venue, the district court has the discretion either to dismiss the case or transfer it to the proper federal court “in the interest of justice.” 28 U.S.C. § 1406(a). Venue may be raised by the court sua sponte where the defendant has not yet filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986).

Plaintiff complains about conditions of confinement at a prison located in Kern

1 County, within the venue of the Eastern District of California. *See* 28 U.S.C. § 84.
2 Therefore, the Court will transfer this action to the United States District Court for the
3 Eastern District of California. Accordingly, IT IS ORDERED in the interest of justice,
4 and pursuant to 28 U.S.C. § 1406(a), that this action be TRANSFERRED to the United
5 States District Court for the Eastern District of California. The Clerk of the Court shall
6 transfer this matter forthwith. In light of the transfer, the Court will not resolve
7 Plaintiff's pending motion seeking to proceed *in forma pauperis* (docket no. 2).

8 IT IS SO ORDERED.

9 DATED: June 20, 2007

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11 JEFFREY S. WHITE
12 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MELVIN PEARSON,

Case Number: CV07-03042 JSW

Plaintiff,

CERTIFICATE OF SERVICE

V.

SCENARIO et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 20, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Melvin Pearson
T75289
Central Valley MCCF
254 Taylor Avenue
McFarland, CA 93250

Dated: June 20, 2007

Jennifer Ottolini
Richard W. Wicking, Clerk
By: Jennifer Ottolini, Deputy Clerk